

MONTANA LEGISLATIVE HISTORY

Chapter 71 ~~19~~ 2001

Bill H 71 S _____

Original bill & history ✓

H. Committee on Bus. & Labor

Hearing Date(s) _____ C

1/9 _____ C

_____ C

_____ C

Date Out 1/11 _____ C

S. Committee on Bus. & Labor

Hearing Date(s) _____ C

2/1 _____ C

_____ C

_____ C

3/2

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

	Transmitted to Senate		
3/30	Referred to Natural Resources		
3/31	Revised Fiscal Note Received		
4/02	Revised Fiscal Note Printed		
4/03	Hearing		
4/09	Committee Executive Action--Bill Concurred as Amended	9	2
4/09	Committee Report--Bill Concurred as Amended		
4/10	2nd Reading Concurred on Voice Vote	49	0
4/11	3rd Reading Concurred	50	0
	Returned to House with Amendments		
4/17	2nd Reading Senate Amendments Concurred	100	0
4/18	3rd Reading Passed as Amended by Senate	97	2
4/18	Sent to Enrolling		
4/19	Returned from Enrolling		
4/19	Signed by Speaker		
4/21	Signed by President		
4/23	Transmitted to Governor		
5/01	Signed by Governor		
5/01	Chapter Number Assigned		
	Chapter Number 488		
	Effective Date: 5/01/2001 - All Sections		

HB 70 Introduced by R. Erickson

LC0499 Drafter: Heiman

Inflation Adjustment for Retirement Tax Exemption

11/15	Fiscal Note Needed		
12/12	Introduced		
12/18	Fiscal Note Requested		
12/26	Referred to State Administration		
1/03	Fiscal Note Received		
1/04	Rereferred to Taxation		
1/08	Fiscal Note Printed		
1/11	Hearing		
1/29	Tabled in Committee		
3/29	Missed Deadline for Revenue Bill Transmittal		

HB 71 Introduced by Gallik

LC0614 Drafter: McClure

Clarify Applicability of Minimum Wage and Overtime Laws

12/12	Introduced		
12/26	Referred to Business and Labor		
1/09	Hearing		
1/11	Committee Executive Action--Bill Passed as Amended	19	0
1/12	Committee Report--Bill Passed as Amended		
1/15	2nd Reading Passed as Amended	99	0
1/17	3rd Reading Passed	98	1
	Transmitted to Senate		
1/18	Referred to Business and Labor		
2/01	Hearing		
3/02	Committee Executive Action--Bill Concurred as Amended	9	0
3/02	Committee Report--Bill Concurred as Amended		
3/03	2nd Reading Concurred on Voice Vote	43	0
3/05	3rd Reading Concurred	49	0
	Returned to House with Amendments		
3/07	2nd Reading Senate Amendments Concurred	100	0

3/09 Signed by Speaker
 3/12 Signed by President
 3/13 Transmitted to Governor
 3/20 Signed by Governor
 3/20 Chapter Number Assigned
 Chapter Number 71
 Effective Date: 3/20/2001 - All Sections

HB 72 Introduced by Facey

LC0616 Drafter: Higgin

Create Rail Passenger Board

11/24 Fiscal Note Needed
 12/12 Introduced
 12/18 Fiscal Note Requested
 12/26 Referred to Transportation
 1/04 Fiscal Note Received
 1/05 Fiscal Note Printed
 1/19 Hearing
 1/31 Tabled in Committee
 2/23 Missed Deadline for General Bill Transmittal

HB 73 Introduced by R. Brown

LC0122 Drafter: Higgin

Full Cost Accounting Pilot Program

By Request of Business and Labor Interim Committee

9/05	Fiscal Note Needed	
12/13	Introduced	
12/18	Fiscal Note Requested	
12/26	Referred to Business and Labor	
1/09	Hearing	
1/10	Fiscal Note Received	
1/10	Fiscal Note Printed	
1/15	Committee Executive Action--Bill Passed as Amended	18
1/16	Revised Fiscal Note Requested	
1/16	Committee Report--Bill Passed as Amended	
1/17	Revised Fiscal Note Received	
1/18	2nd Reading Passed	93
1/18	Rereferred to Appropriations	
1/29	Hearing	
1/31	Committee Executive Action--Bill Passed as Amended	17
1/31	Committee Report--Bill Passed as Amended	
2/02	2nd Reading Passed	88
2/03	3rd Reading Passed	91
	Transmitted to Senate	
2/06	Referred to Finance	
3/01	Hearing	
3/16	Committee Executive Action--Bill Concurred as Amended	18
3/16	Committee Report--Bill Concurred as Amended	
3/28	2nd Reading Concurred as Amended	29
3/29	3rd Reading Concurred	31
	Returned to House with Amendments	
4/12	2nd Reading Senate Amendments Concurred	94
4/13	3rd Reading Passed as Amended by Senate	91
4/13	Sent to Enrolling	
4/16	Returned from Enrolling	
4/19	Signed by Speaker	

2001 Montana Legislature

About Bill -- Links

HOUSE BILL NO. 71

INTRODUCED BY D. GALLIK



AN ACT CLARIFYING THE APPLICABILITY OF MONTANA'S MINIMUM WAGE AND OVERTIME LAWS; AMENDING SECTIONS 39-3-405, 39-3-406, AND 39-3-408, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-405, MCA, is amended to read:

"39-3-405. Overtime compensation. (1) ~~No~~ An employer ~~shall~~ may not employ any ~~of his employees~~ employee for a workweek longer than 40 hours unless ~~such~~ the employee receives compensation for ~~his~~ employment in excess of 40 hours in a workweek at a rate of not less than 1 1/2 times the hourly wage rate at which ~~he~~ the employee is employed.

(2) ~~No~~ An overtime provision ~~shall~~ does not apply for farm workers.

(3) Employers of students at an amusement or recreational area that operates on a seasonal basis who furnish ~~said~~ the students with board, lodging, or other facilities ~~shall~~ may not employ ~~said~~ the students for a workweek longer than 48 hours, unless ~~such~~ the students receive compensation for their employment in excess of 48 hours in a workweek at a rate of not less than 1 1/2 times the hourly wage rate at which they are employed.

(4) The application of the overtime provisions of subsection (1) to the employment of firefighters and law enforcement officers by the state must be consistent with the Fair Labor Standards Act of 1938, as amended, and consistent with regulations promulgated under the act."

Section 2. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 do not apply with respect to:

- (a) students participating in a distributive education program established under the auspices of an accredited educational agency;
- (b) persons employed in private homes whose duties consist of menial chores, such as babysitting, mowing lawns, and cleaning sidewalks;
- (c) persons employed directly by the head of a household to care for children dependent upon the head of the household;
- (d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;
- (e) persons who are not regular employees of a nonprofit organization and who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;
- (f) persons with disabilities engaged in work that is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;
- (g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;
- (h) learners under the age of 18 who are employed as farm workers, provided that the exclusion may not exceed 180 days from their initial date of employment and further provided that during this exclusion period, wages paid the learners may not be less than 50% of the minimum wage rate established in this part;
- (i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;
- (j) an individual employed in a bona fide executive, administrative, or professional capacity as these terms are defined by regulations of the commissioner;
- (k) an individual employed by the United States of America;
- (l) resident managers employed in lodging establishments or personal care facilities who, under the terms of their employment, live in the establishment or facility;
- (m) an outside salesperson or marketing representative paid on a commission, contract, or salary basis who is primarily employed in selling or marketing products or services in the food distribution industry for a food broker, wholesaler, or association;
- (n) a direct seller as defined in 26 U.S.C. 3508;
- (o) a person placed as a participant in a public assistance program authorized by Title 53 into a work setting for the purpose of developing employment skills. The placement may be with either a public or private employer. The exclusion does not apply to an employment relationship formed in the work setting outside the scope of the employment skills activities authorized by Title 53.
- (p) a person serving as a foster parent, licensed as a foster care provider in accordance with 41-3-

1141, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(q) an employee employed in domestic service employment to provide live-in companionship services, as defined in 29 CFR 552.6, for individuals who, because of age or infirmity, are unable to care for themselves as provided under section 213(a)(15) of the Fair Labor Standards Act (29 U.S.C. 213).

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States secretary of transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 31502;

(b) an employee of an employer subject to 49 U.S.C. 10501 and 49 U.S.C. 60501, the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) an outside salesperson paid on a commission or contract basis who is primarily employed in selling advertising for a newspaper;

(e) a salesperson, parts person, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, farm implements, or replacement parts if the salesperson, parts person, or mechanic is employed by a nonmanufacturing establishment primarily engaged in the business of selling the vehicles, implements, or replacement parts to wholesalers or ultimate purchasers;

(f) a salesperson primarily engaged in selling trailers, boats, or aircraft if the salesperson is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(g) an outside salesperson paid on a commission or contract basis who is primarily employed in selling office supplies, computers, or other office equipment for an office equipment dealer;

(h) a salesperson paid on a commission or contract basis who is primarily engaged in selling advertising for a radio or television station employer;

(i) an employee employed as a driver or driver's helper making local deliveries who is compensated for the employment on the basis of trip rates or other delivery payment plan if the commissioner finds that the plan has the general purpose and effect of reducing hours worked by the employees to or below the maximum workweek applicable to them under 39-3-405;

(j) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways that are not owned or operated for profit, that are not operated on a sharecrop basis, and that are used exclusively for supply and storing of water for agricultural purposes;

(k) an employee employed in agriculture by a farmer, notwithstanding other employment of the

employee in connection with livestock auction operations in which the farmer is engaged as an adjunct to the raising of livestock, either alone or in conjunction with other farmers, if the employee is:

- (i) primarily employed during a workweek in agriculture by a farmer; and
- (ii) paid for employment in connection with the livestock auction operations at a wage rate not less than that prescribed by 39-3-404;
- (l) an employee of an establishment commonly recognized as a country elevator, including an establishment that sells products and services used in the operation of a farm if no more than five employees are employed by the establishment;
- (m) a driver employed by an employer engaged in the business of operating taxicabs;
- (n) an employee who is employed with the employee's spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in the institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as the employee and the employee's spouse reside in the facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than \$10,000;
- (o) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed eight;
- (p) an employee of a sheriff's department who is working under an established work period in lieu of a workweek pursuant to 7-4-2509(1);
- (q) an employee of a municipal or county government who is working under a work period not exceeding 40 hours in a 7-day period established through a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 40 hours in a 7-day, 40-hour work period must be compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee.
- (r) an employee of a hospital or other establishment primarily engaged in the care of the sick, disabled, aged, or mentally ill or defective who is working under a work period not exceeding 80 hours in a 14-day period established through either a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 8 hours a day or 80 hours in a 14-day period must be compensated for at a rate of not less than 1 1/2 times the hourly wage rate for the employee.
- (s) a firefighter who is working under a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative;
- (t) an officer or other employee of a police department in a city of the first or second class who is working under a work period established by the chief of police under 7-32-4118;
- (u) an employee of a department of public safety working under a work period established pursuant

to 7-32-115;

(v) an employee of a retail establishment if the employee's regular rate of pay exceeds 1 1/2 times the minimum hourly rate applicable under section 206 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) and if more than half of the employee's compensation for a period of not less than 1 month is derived from commissions on goods and services;

(w) a person employed as a guide, cook, camp tender, or livestock handler by a licensed outfitter as defined in 37-47-101;

(x) an employee employed as a radio announcer, news editor, or chief engineer by an employer in a second- or third-class city or a town;

(y) an employee of the consolidated legislative branch as provided in 5-2-503;

(z) an employee of the state or its political subdivisions employed, at the employee's option, on an occasional or sporadic basis in a capacity other than the employee's regular occupation. Only the hours that the employee was employed in a capacity other than the employee's regular occupation may be excluded from the calculation of hours to determine overtime compensation."

Section 3. Section 39-3-408, MCA, is amended to read:

"39-3-408. Provisions cumulative. (1) The provisions of this part ~~shall be~~ are in addition to other provisions ~~now~~ provided by law for the payment and collection of wages and salaries and are applicable to employees of the state of Montana, except that the penalty provisions of 39-3-206 do not apply to minimum wage and overtime claims that are subject to the Fair Labor Standards Act of 1938, in which case liquidated damages as determined under the Fair Labor Standards Act of 1938 apply ~~but shall not apply to employees covered by the Fair Labor Standards Act of 1938 except as provided in subsection (2).~~

(2) Sections 39-3-402 and 39-3-404 ~~shall~~ apply to an employee covered by the Fair Labor Standards Act of 1938 if state law provides a minimum wage that is higher than the minimum wage established under federal law."

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

Latest Version of HB 71 (HB0071.ENR)
Processed for the Web on March 9, 2001 (11:41AM)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.
See the [status of this bill](#) for the bill's primary sponsor.

[Status of this Bill](#) | [2001 Legislature](#) | [Leg. Branch Home](#)
[This bill in WP 5.1](#) | [All versions of all bills in WP 5.1](#)
[Authorized print version w/line numbers \(PDF format\)](#)

Prepared by Montana Legislative Services

(406)444-3064

HEARING ON HB20

Sponsor: REP. JIM SHOCKLEY. HD61, Ravalli

Proponents: Robert Throssell, Montana Association of Clerks and
Recorders

Opponents: None

{Tape : 1; Side : A; Approx. Time Counter : 4}

Opening Statement by Sponsor:

REP. SHOCKLEY said the bill will do away with paying unemployment insurance for election judges. This used to be required but is no longer if the employee doesn't make more than \$1000 a year. HB20 was presented with amendments.

Proponent's Testimony:

Robert Throssell spoke in support of the bill.

Opponent's Testimony: None

Closing by Sponsor:

Rep. Shockley urged the committee to approve the bill.

HEARING ON HB71

Sponsor: REP. DAVE GALLIK, HD51, Helena

Proponents: Tom Schneider, MPEA

Opponents: None

Informational Witnesses: John McEwen, Department of
Administration
John Andrew, Department of Labor and
Industry

Opening Statement by Sponsor:

REP. DAVE GALLIK, HD52, Helena said HB71 would clarify confusion as a result of current language as to whether certain individuals are subject to federal law or state law. This will provide coverage by the Montana Fair Labor Standard Act. There will also be an amendment to make sure the fire department, police and

state can use alternate work weeks to trigger eligibility rather than the 40 hour, five day week.

Proponents' Testimony:

Tom Schneider said there is confusion whether certain employees are covered by state or federal law. Passing this bill will let the enforcement come under the state rather than the federal government. He urged support of the amendment.

Opponents' Testimony: None

Informational Witnesses:

John McEwen said he was working on an amendment to exempt fire departments and law enforcement personnel.

John Andrew said there had been a problem with this section in the past and this bill would clarify the section.

Questions from the Committee Members and Responses: None

Closing by Sponsor:

REP. GALLIK said it is a good bill which will clear up confusion caused by the current language and urged the committee to pass HB71.

{Tape : 1; Side : A; Approx. Time Counter : 17}

HEARING ON HB73

Sponsor: REP. ROY BROWN, HD14, Billings

Proponents: Web Brown, Montana Chamber of Commerce
Charles Brooks, Billings Chamber of Commerce
Carl Schweitzer, Bozeman and Kalispell Chambers of Commerce
Tom Daubert, self
Mike Foster, Governor's Office
Ed Maronick, Montana Contractor's Assn.
Geoff Feiss, Montana Telecommunications Assn.
Mary Whittinghill, Montana Taxpayers Association

Opponents: None

Opening by Sponsor:

we can judge which is more efficient: government or private business.

Ed Maronick presented written testimony. EXHIBIT(buh06a02)

Geoff Feiss presented written testimony. EXHIBIT(buh06a03)

Mary Whittinghill presented written testimony. EXHIBIT(buh06a04)

Closing by Sponsor:

REP. ROY BROWN told the committee that sometimes change is difficult but HB73 will make government more efficient, more accountable and a better way to do the state's business.

{Tape : 1; Side : A; Approx. Time Counter : 25.8}

EXECUTIVE ACTION ON HB71

REP. LAWSON moved HB20 DO PASS AS AMENDED. Motion Carried Unanimously. 17-0.

ADJOURNMENT

Adjournment: 9:17 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT(buh06aad)

HOUSE OF REPRESENTATIVES
ROLL CALL

HOUSE BUSINESS AND LABOR COMMITTEE

DATE JAN 9, 2001

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
Rep. Joe McKenney	✓		
Rep. Gary Matthews	.		✓
Rep. Roy Brown	✓		
Rep. Kathleen Galvin-Halcro	✓		
Rep. Carol Juneau	✓		
Rep. Rick Laible	✓		
Rep. John Musgrove	✓		
Rep. Nancy Rice-Fritz	✓		
Rep. Don Steinbeisser	✓		
Rep. Jim Whitaker	✓		
Rep. Rod Bitney	✓		
Rep. Sylvia Bookout-Reinicke	✓		
Rep. Dave Gallik	✓		
Rep. Dennis Himmelberger	✓		
Rep. Jim Keane	✓		
Rep. Bob Lawson	✓		
Rep. Bill Price	✓		
Rep. Brett Tramelli	✓		
Rep. Allen Rome	✓		

+MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE JAN. 9, 2001

BILL NO. 71

SPONSOR(S) REP. GALLIK

TYPE
PROPOSER (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
POI	<i>Tom Schneider</i>	<i>Helena</i>	<i>WPEA</i>
POI	<i>John Andrew (1)</i>	<i>Helena</i>	<i>DOLI</i>
POI	<i>John McEwen</i>	<i>Helena</i>	<i>D of Admin</i>
POI			
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

S:\visitor register.frm

HOUSE Business & Labor COMMITTEE

PLEASE PRINT

COMMENTS _____

HEARING ON HB 71

Sponsor: REPRESENTATIVE DAVE GALLIK, HD 62, HELENA

Proponents: Tom Schneider, MT Public Employees' Association
Jack Holstrom, State Board of Appeals

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1.7}

REPRESENTATIVE DAVE GALLIK, HD 52, HELENA, said this is a housekeeping measure which clarifies the applicability of Montana's minimum wage and overtime laws. He said this bill is a result of some litigation, Alden vs. Maine, that caused some confusion for employers as to whether or not they were subject to the Fair Labor Standards Act or Montana's provisions. This bill brings the two in line with each other. He said the bill also provides exceptions for some people from overtime. He gave an example of a County Commissioner decided to take tickets at the fair, since this is totally different from his regular job he would not be paid overtime for this work. He then handed the committee a proposed amendment. EXHIBIT (bus26a01)

Proponents' Testimony:

Tom Schneider, MT Public Employees' Association, said state employees are now covered by the Fair Labor Standards Act, which is a federal minimum wage and overtime act. He further stated that this bill is meant to affirm that state employees are covered by the Fair Labor Standards Act and by the minimum wage law.

Jack Holstrom, State Board of Appeals, restated that the purpose of this bill is to bring the Fair Labor Standards Act under Montana law so it covers public employees.

Opponents' Testimony: None

Informational Witness:

John Andrew, Department of labor and Industry, said there has been some confusion in the private realm as well, which, he stated, this bill would help alleviate.

Questions from Committee Members and Responses:

SENATOR DON RYAN, asked about what would be available to state employees for comp time under this legislation.

Tom Schneider replied, said it wouldn't change because they are already under the Fair Labor Act.

Closing by Sponsor:

REPRESENTATIVE DAVE GALLIK, HD 62, HELENA closed without comment.

HEARING ON SB 277

Sponsor: SENATOR DEBBIE SHEA, SD 18, BUTTE/SILVERBOW

Proponents: Dick Grover, Building Codes Council
Jerry Lyford, Board of Licensed Plumbers
Byron Roberts, MT Building Industry Association
Carl Schweitzer, Plumbing & Heating Contractors
Jo Hawkins, Citizen Rep on Board of Commerce
Jacqueline Lenmark, American Insurance Association
Mike Tehle, Alpine Plumbing
Bill Jellison, Department of Commerce

Opponents: None

Opening Statement by Sponsor:

SENATOR DEBBIE SHEA, SD 18, BUTTE/SILVERBOW, said this bill deals specifically with people doing their own plumbing. It states that they would have to get a permit, and they would have to have their work inspected. She stated this does not stop a homeowner from doing their own plumbing, it just means it would have to be inspected. EXHIBIT(bus26a02)

Proponents' Testimony:

Dick Grover, Building Codes Council, said he thinks this is a necessary step to protect the health and safety of the public. He then handed out written comments. EXHIBIT(bus26a03)

Jerry Lyford, Board of Licensed Plumbers, said this would give a home buyer the assurance that the home was plumbed to a certain standard.

Byron Roberts, MT Building Industry Association, said this bill is very reasonable in that it retains the homeowner exemption, but it simply insures that the plumbing meets existing codes.

HB 71

SENATE LABOR & EMPLOYMENT
ENACTED BY _____
DATE 2-1-2001
BILL NO. 50277

Strike the amendment (z) as per the House version and substitute the following:

- (z) The forty hour workweek overtime provisions of 39-3-405 do not apply to state law enforcement officers and firefighters whose overtime must be calculated and compensated according to the provisions of the Fair Labor Standards Act of 1938, as amended, and the regulations promulgated thereunder; and enforcement may be had under this part.

DATE _____

[illegible]

DATE Feb 1, 2001

SENATE COMMITTEE ON Business & Labor

BILLS BEING HEARD TODAY: HB 71, SB 277, HB 155

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Tom Schuder	442-4600	WPEA	HB 71	X	
Herb Ballou	443-4600	Purple Heart	HB 71		
Gordon Morris		MACO	HB 71	X	
Jaqueline Benmark		Am. Ins. Assn	SB 277	X	
JNTL Jaqueline Benmark		Mt Water Hall Drillers Assn	SB 277		X
BILL TELLISON	841-2040	STATE BLDG CODES	SB 277	X	
Dick Grover	728-5231	Self & Bldg Codes Council	SB 277	X	
Jenny Lyford	253-8005	Mt. State Plumbing	SB 277	X	
Greg VanHousen	20230	State Farm	SB 277	X	
Robert Tichler	252-7100	Alpine Plumbing			
Mike Tichler	252-7100	Alpine Plumbing			
DOUG MENZER	442-1289	MFWD	HB 71		
Jim Halseth	442-5209	MACO	HB 71		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Feb 1, 2001

SENATE COMMITTEE ON Business & Labor

BILLS BEING HEARD TODAY: HB 71, SB 277, HB 155

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Jo Hawkins	443-0139	Citizen	SB 277	✓	
Carl Schweitzer	452-1334	Associated Plumbing & Heating Cont of MT	SB 277	✓	
Hal Aase	449-3755	Home Inspectors	SB 277	✓	
Peg Dingman	932-5440	MT Assoc of Realtors	HB 155	✓	
LoREN GOLBERG	406-2191	MONTANA LAND TITLE ASSN	HB 155	✓	
BILL GOWEN	442-5080	HELENA ABST & TITLE CO	HB 155	✓	
Johy Andrew	444-4619	State of Montana - DOLT	HB 71	info only	
Stuart Rossett	442-5490	MT Land Title Assoc.	HB 155	✓	
Byron Roberts	442-4479	MT Building Ind Assn	SB 277	✓	
Byron Roberts	442-4479	MT Building Ind Assn	HB 155	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

EXECUTIVE ACTION ON HB 300

Motion/Vote: SEN. RYAN moved that HB 300 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 150

Motion: SEN. TAYLOR moved that AMENDMENTS TO HB 150 BE ADOPTED.

Discussion: CHAIRMAN TAYLOR said this amendment was to stop employees from drawing 52 weeks of employment and still get two weeks of unemployment.

Vote: Motion carried 8-1 with Mahlum voting no.

Discussion: SENATOR COCCHIARELLA wanted another amendment. She said the word mandated should be taken out of the bill. Because it had unintended consequences to other companies from the one in question. This is an attempt to clarify that people can't get paid for vacation time at the same time they are collecting unemployment insurance. CHAIRMAN TAYLOR said if you take that word mandate out you are telling people how to run their business. Bart Campbell said it would say to a business that if you are in a period of shutdown you can't tell your employees they have to take their vacation. SENATOR RYAN said that this is not fair to people who have accrued vacation time. They would be required to take the vacation, however the person who has no vacation accrued will be eligible for unemployment.

CHAIRMAN TAYLOR withdrew his Motion in order to delay action until they could study the bill further.

EXECUTIVE ACTION ON HB 71

Motion: SEN. COCCHIARELLA moved that AMENDMENTS #7103 TO HB 71 BE ADOPTED.

Discussion: Bart Campbell explained the amendments. CHAIRMAN TAYLOR said this would mean that after 48 hours wages would go into time and a half. SENATOR SPRAGUE asked if compensation could be with time off. John Andrews said there is no provision for this in private industry, they would need to receive cash compensation. He also said that there is an exception for law enforcement and fire fighters.

Vote: Motion carried unanimously.

Motion/Vote: SEN. SPRAGUE moved that HB 71 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

ADJOURNMENT

Adjournment: 9:10 A.M.

SEN. MIKE TAYLOR, Chairman

KYANNE KELLY, Secretary

MT KK

EXHIBIT (bus48aad)

DATE March 2, 2001

[illegible]

**MONTANA SENATE
2001 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE**

DATE 3-2-2001 BILL NO. HB 71 NUMBER 10

MOTION:

Sen C moves Be adopted
Amendment 5 HR007103.abc

[illegible]

**MONTANA SENATE
2001 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE**

DATE 3-2-2001 BILL NO. HB 71 NUMBER 12

MOTION:

Sen Sprague moves BE Concurred
as amended
Oppa Sen C. to comply

[illegible]

Amendments to House Bill No. 71
3rd Reading Copy

Requested by Representative Dave Gallik

For the Senate Business and Labor Committee

Prepared by Bartley Campbell
March 1, 2001 (11:27AM)

1. Title, line 5.

Following: "SECTIONS"

Insert: "39-3-405,"

Following: "39-3-406"

Insert: ", "

2. Page 1, following line 9.

Insert: "Section 1. Section 39-3-405, MCA, is amended to read:

"39-3-405. Overtime compensation. (1) No An employer ~~shall~~ may not employ any of ~~his employees~~ employee for a workweek longer than 40 hours unless ~~such the~~ employee receives compensation for ~~his~~ employment in excess of 40 hours in a workweek at a rate of not less than 1 1/2 times the hourly wage rate at which ~~he the employee~~ is employed.

(2) No An overtime provision ~~shall~~ does not apply for farm workers.

(3) Employers of students at an amusement or recreational area that operates on a seasonal basis who furnish ~~said the~~ students with board, lodging, or other facilities ~~shall~~ may not employ ~~said the~~ students for a workweek longer than 48 hours, unless ~~such the~~ students receive compensation for their employment in excess of 48 hours in a workweek at a rate of not less than 1 1/2 times the hourly wage rate at which they are employed.

(4) The application of the overtime provisions of subsection (1) to the employment of firefighters and law enforcement officers by the state must be consistent with the Fair Labor Standards Act of 1938, as amended, and consistent with regulations promulgated under the act."

{ Internal References to 39-3-405:

7-4-2509 x 7-32-115 x 7-32-4118 x 39-3-406 x
39-3-406 x 39-3-406 x } "

Renumber: subsequent sections

3. Page 5, lines 13 through 15.

Strike: subsection (z) in its entirety

Renumber: subsequent subsection

4. Page 5, line 23.

Following: "salaries"

Insert: "and are applicable to employees of the state of Montana, except that the penalty provisions of 39-3-206 do not apply to minimum wage and overtime claims that are subject to the Fair Labor Standards Act of 1938, in which case liquidated damages as determined under the Fair Labor Standards Act of 1938 apply"

- END -